

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6446

BILL NUMBER: HB 1117

NOTE PREPARED: Jan 29, 2008

BILL AMENDED: Jan 28, 2008

SUBJECT: Coal Gasification and Substitute Natural Gas.

FIRST AUTHOR: Rep. Stilwell

FIRST SPONSOR: Sen. Hershman

BILL STATUS: As Passed House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Coal Gasification Technology Investment Tax Credit:* This bill provides that a taxpayer awarded a coal gasification technology investment tax credit may agree to use less than 100% Indiana coal in the qualifying coal gasification project and qualify for the credit if the taxpayer: (1) wishes to assign the tax credit; and (2) certifies to the Indiana Economic Development Corporation (IEDC) that partial use of other coal is necessary to result in lower rates for Indiana retail utility customers.

Substitute Natural Gas: The bill changes the definition of "substitute natural gas" to include gas: (1) produced by a facility outside Indiana; and (2) converted from coal from a location other than the Illinois basin. It also changes the definition of a "customer choice program" to include customers located in the service area of an electric utility and provides that when substitute natural gas (SNG) purchase obligations are proportionally assigned due to a customer choice program, the assignee must meet the assignment requirements in the previously approved contract for purchase of the SNG.

Credit for Qualified Energy Generation Equipment: The bill provides that a taxpayer that purchases from an Indiana business certain equipment used to produce energy derived from the use of wind or from the use of anaerobic digestors is entitled to a credit against state income tax liability. It provides that the amount of the credit is 10% of the purchase price of the equipment.

Effective Date: January 1, 2008 (retroactive); January 1, 2009.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The DOR would incur some administrative expenses relating to the revision of tax forms and instructions to incorporate changes relating to coal gasification technology investment tax credit and the tax credit for certain qualified equipment

purchases. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: Coal Gasification Technology Investment Credit: The bill allows a taxpayer to obtain the coal gasification technology investment tax credit while using less than 100% Indiana coal if: (1) the taxpayer wants to assign the tax credit pursuant to current statute; and the taxpayer certifies to the IEDC that partial use of other coal is necessary to result in lower rates for Indiana utility customers. Any fiscal impact that might arise due to these changes could begin in FY 2009 or FY 2010.

The coal gasification technology investment tax credit may be taken against a taxpayer's tax liability arising under the Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, Insurance Premiums Tax, and Utility Receipts Tax. The tax credit is for qualified investment in an integrated coal gasification power plant which converts coal to synthesis gas and uses the synthesis gas to generate electric energy. The credit is equal to 10% of the first \$500 M in qualified investment, and 5% of the qualified investment exceeding \$500 M. Current statute also provides for a separate and lesser tax credit for qualified investment in fluidized bed combustion technology. This credit would be equal to 7% of the first \$500 M in qualified investment, and 3% of the qualified investment exceeding \$500 M. A taxpayer may take the credit in 10 annual installments beginning with the year in which the taxpayer places the integrated coal gasification power plant or fluidized bed combustion unit into service. The annual credit installment that a taxpayer may claim is equal to the lesser of the percentage of the coal utilized during the taxable year in the facility that is Indiana coal multiplied by: (1) 10% of the total credit amount; or (2) the greater of (a) 25% of the taxpayer's total state tax liability for the taxable year or (b) the taxpayer's Utility Receipts Tax liability for the taxable year. A is also allowed to assign part or all of the tax credit to an electric utility that has entered a contract to purchase electricity or substitute natural gas from the taxpayer.

Credit for Qualified Energy Generation Equipment: The bill provides that a taxpayer that purchases from an Indiana business certain equipment used to produce energy derived from the use of wind or from the use of anaerobic digesters is entitled to a nonrefundable credit against state income tax liability equal to 10% of the purchase price of the equipment. The amount of credits that may be claimed annually for qualified equipment purchases is indeterminable but could be significant from large-scale users of anaerobic digesters and utility-scale wind generating facilities. Any fiscal impact from the credit could begin in FY 2010.

Information on both technologies and examples of potential credits for each under the bill are as follows:

(1) According to the U. S. Environmental Protection Agency, *anaerobic digester* equipment can cost between \$200 and \$750 for each 1,000 pounds of live weight (i.e., cows, horses, chickens, pigs, etc.). In 2006, there were 3 farms in Indiana with anaerobic digester technology. The credits for 2006 would have ranged from \$157,500 to \$577,500. The bill's provisions relating to this credit is effective beginning in FY 2009. Thus, any fiscal impact would likely not occur until FY 2010.

(2) The American Wind Energy Association estimates that the installed cost of a *small wind energy system* could range from \$3,000 to \$5,000 per kilowatt of generating capacity, or about \$40,000 for a 10 kilowatt generating system. The number of small wind energy systems being constructed annually in Indiana is unknown. Assuming 70% of the installed cost is equipment cost, the tax credit for a 10 kilowatt system could total \$2,800.

(3) The U. S. Department of Energy estimates that for *large wind generating projects* the installed cost could average about \$1,480 per kilowatt of generating capacity. Utility-scale wind energy projects have a generating capacity of at least 1 megawatt (1,000 kilowatts). Assuming 70% of the installed cost is equipment

cost, the tax credit for a 1 megawatt system could total about \$148,000. The potential revenue loss from credits relating to utility-scale wind generating facilities could be significant based on potential construction of utility-scale wind generating systems after 2008. The Indiana Office of Energy and Defense Development reports that utility-scale wind energy facility with a capacity of 130 megawatts is scheduled for completion in Benton County in May 2008. The OEDD also reports that another utility-scale facility is being planned in Benton County with a capacity ranging from 300 to 400 megawatts that could be constructed during 2008. Neither project would qualify for the tax credit as it is effective beginning in 2009. However, the OEDD also reports that there could potentially be in excess of 2,000 megawatts of wind generating capacity being planned for future construction.

The tax credit is nonrefundable and excess credits may not be carried back. However, the bill allows excess credits to be carried over for up to 5 taxable years. If the taxpayer is a pass through entity and does not have a tax liability, the credit could be taken by shareholders, partners, or members of the pass through entity in proportion to their distributive income from the pass through entity, or as otherwise agreed to by shareholders, partners, or members of the pass through entity.

Revenue from the Corporate AGI tax, the Utility Receipts Tax, the Insurance Premiums Tax, and the Financial Institutions Tax is deposited in the state General Fund. Eighty-six percent of the revenue from the Individual AGI Tax is deposited in the state General Fund, and 14% is deposited in the Property Tax Replacement Fund.

Substitute Natural Gas: The bill eliminates the requirements that facilities generating substitute natural gas and applying to the IURC for a rate adjustment to recover costs must be located in Indiana and must use Illinois Basin coal. This would expand the number of facilities that may seek rate adjustments for cost recovery and financial incentives from the IURC currently provided by statute to clean coal and energy projects, construction or repower of a new energy generating facility, and development of alternative and renewable energy resources.

To the extent that these changes increase utility rates, there could be an increase Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax collections. The amount of any increase is indeterminable and will ultimately depend upon rate adjustments allowed by the IURC for cost recovery.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IURC; IEDC.

Local Agencies Affected:

Information Sources: Cuttica, John. "Combined Heat and Power - the Concept." Midwest CHP Application Center, University of Illinois at Chicago. Peru, IN. 06 June 2006; The Environmental Protection Agency, <http://www.epa.gov>. American Wind Energy Associatio, Small Wind Projects, <http://www.awea.org/smallwind/toolbox2/financing.html>. Paul Cummings, Indiana Office of Energy and Defense Development, "Renewable Energy Opportunities.," 2007. U. S. Department of Energy, "Annual Report on U. S. Wind Power Installation, cost, and Performance Trends: 2006." May 2007.

Fiscal Analyst: Hannah Mongiat, 317-232-9867; Jim Landers 317-232-9869.